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PART IV-A

Rules and Orders (Other than those published in Parts I, I-A, and I-L) made
by the Government of Gujarat under the Central Acts

LABOUR, SKILL DEVELOPMENT AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Sachivalaya, Gandhinagar, 5th July, 2022.

THE FACTORIES ACT, 1948.

No. GR/2022/85/FAC/142021/2497/M3 : The following draft of rules which is proposed to be issued under section 112 of the Factories Act, 1948 (63 of 1948), is hereby published as required by sub-section(1) of section- 115 of the aforesaid Act, for information of all persons likely to be affected thereby and notice is hereby given that the said draft of rules will be taken into consideration by the Government of Gujarat on or after the expiry of forty-five days from the date of its publication in the *Official Gazette*.

Any objection or suggestion which may be received by the Deputy Secretary to Government of Gujarat, Labour, Skill Development and Employment Department , 5th Block, 6th Floor, Sachivalaya, Gandhinagar or by email ds-labour-led@gujarat.gov.in from any person with respect to the said draft rules on or before the expiry of the aforesaid period will be considered by the Government.

Draft Notification

THE FACTORIES ACT, 1948.

No. GR/2022/85/FAC/142021/2497/M3 : In exercise of the powers conferred by section 112 of the Factories Act, 1948 (63 of 1948), the Government of Gujarat hereby makes the following rules, namely:-

1. **Short title, application and commencement-** (1) These rules may be called The Gujarat Factories (Occupational Health & Safety Audit) Rules, 2022.
 - (2) They shall apply to the following categories of factories, namely: —
 - (a) Category I Factories;
 - (b) Category II Factories; and
 - (c) Category III Factories,
 - (3) They shall come into force at once.

2. Definitions. - (1) In these rules, unless the context otherwise requires, -

- (a) “Act” means the Factories Act, 1948;
- (b) “Category I Factory” means factories involving major accident hazard (MAH) installations as defined under clause (ja) of rule 2 of the Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989, as amended from time to time;
- (c) “Category II Factories” means
 - (i) factories wherein the “hazardous process” defined under clause (cb) of section 2 of the Act is involved or carried out; or
 - (ii) factories involving isolated storage and industrial activity at a site handling (including transport through carrier or pipeline) of hazardous chemicals less than the threshold quantities specified in column 3 of Schedules 2 and 3 under Rule 68 J of the Gujarat Factories Rules, 1963 but greater than 100 litres or kg at a time;

OR

factories involving isolated storage and industrial activity at a site handling (including transport through carrier or pipeline) of hazardous chemicals less than the threshold quantities specified in column 3 of Schedules 2 and 3 of the Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989 but greater than 100 litres or kg at a time;

- (d) “Category III Factories” means factories other than Category I Factories and Category II Factories and licensed to employ more than 100 workers on any day;
 - (e) “Chief Inspector” means Chief Inspector of Factories or Director Industrial Safety and Health of Gujarat State appointed under sub-section (2) of section 8 of the Act;
 - (f) “Degree” means the degree of a State Government recognized University or an Institution;
 - (g) “Form” means Form appended to these rules;
 - (h) “Government” means the Government of Gujarat;
 - (i) “hazardous chemical” means a hazardous chemical as defined in clause 1(a) of Rule 68 J of the Gujarat Factories Rules, 1963 and clause (e) of rule 2 of the Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989;
 - (j) “occupational health & Safety audit” means a systematic, objective assessment and documental evaluation of the safety systems, practices, operations and procedures related to the management of occupational health and safety pertaining to the storage & handling of chemicals, unit processes and workplace hazards in and pertaining to Category I Factories, Category II Factories and Category III Factories;
 - (k) “Occupational Health and Safety Auditor” means a person or an organization recognized by the Chief Inspector of Factories as Occupational Health and Safety Auditor, for the purpose of carrying out Occupational Health and Safety audits;
 - (l) “Section” means section of the Act.
 - (m) “Schedule” means the Schedule appended to these rules;
- (2) Words and expressions used herein but not defined shall have the same meanings as are respectively assigned to them in the Act or rules made thereunder.

3. Conducting Occupational Health and Safety Audit.- The occupier shall arrange to carry out an Occupational Health and Safety Audit, as follows: -

- (1) Internally, at intervals not exceeding twelve months, by factory staff,
- (2) externally, by an Occupational Health and Safety Auditor recognized by Chief Inspector at following intervals, namely :-
 - (a) Once in two years for Category I Factories;
 - (b) Once in three years for Category II Factories; and
 - (c) Once in four years for Category III Factories:

Provided that, in the year when external occupational health and safety audit is carried out, internal audit need not be carried out for that year:

Provided further that after commencement of these Rules, the Occupier shall arrange to carry out an occupational health and safety audit, -

- (i) Internally, by factory staff within a period of six months from such commencement; and
- (ii) Externally, by an Occupational health and safety Auditor recognized by Chief Inspector, within a period of twelve months from such commencement.

4. Occupational Health and Safety Auditor. -

- (1) The Chief Inspector may recognize a person or an organization having persons possessing qualifications, experience and fulfilling other requirements as specified in the **Schedule-I** hereto as Occupational Health and Safety Auditor, for a period not exceeding two years from the date of such recognition.
- (2) The person or an organization desirous of being recognized as Occupational Health and Safety Auditor under these Rules, shall submit to the Chief Inspector an application in **Form I** or **Form II**, as the case may be, accompanied with the documents specified in the **Schedule-I**.
- (3) The Chief Inspector, upon receipt of an application under sub-rule (2), shall recognize the applicant person or an organization as Occupational Health and Safety Auditor based on criteria specified in **Schedule-I** and issue a certificate of recognition in the **Form III** or reject the application specifying the reasons therefore.
- (4) The Chief Inspector may, after giving an opportunity to the Occupational Health and Safety Auditor of being heard, revoke the certificate of recognition,-
 - (a) if he has a reason to believe that the Occupational Health and Safety Auditor has violated any condition stipulated in the certificate of recognition; or
 - (b) for any other reason to be recorded in writing.
- (5) The Chief Inspector may from time to time fix the total number of such Occupational Health and Safety Auditor to be appointed depending on the total quantum of work available in the State and the manner in which applications are to be invited.
- (6) Occupational Health and Safety Auditor shall maintain a logbook of all Occupational Health and Safety audits undertaken by him indicating the name and address of the audited factory, name of the person who has carried out safety audit, contact persons, date of the audit and date of submission of the audit report to the Occupier. It shall be produced as and when required by officers of The Chief Inspector.
- (7) Occupational Health and Safety Auditor and the person authorized to carry out Safety audit shall not conduct Occupational Health and Safety Audit of any factory where such auditor or person is employed, or an occupier, partner, director, or manager of that factory, or of any factory owned, operated, managed, or conducted by immediate family members, relatives or extended family members or wherein that auditor or such person has any direct or indirect interest whatsoever. An auditor or such person shall not carry out the Occupational Health and safety audit of those factories to which that auditor or such person supplies any plant, machinery, raw material, safety equipments or other materials or equipment.
- (8) Occupational Health and Safety Auditor and the person authorized to carry out safety audit shall not disclose, even after he cease to be a recognized auditor or employee of the institution, any manufacturing or commercial secrets or working processes or other confidential information which may come to his knowledge in the course of their duties as an auditor. Any failure in this regard may make such auditor or person liable for criminal or civil proceedings, in accordance with the law for the time being in force.
- (9) The recognition granted under sub-rule (3) shall be valid for two years from the date of issue of Certificate of Recognition.
- (10) The application for renewal of recognition as Occupational Health and safety auditor shall be made at least three months before the expiry of the period of recognition and the procedure stated in sub rule (2) shall apply *mutatis mutandis* for its renewal.

5. Methodology for conducting Occupational Health and Safety Audit. - An occupational health and safety audit shall be carried out as per relevant Indian standards, the Indian Standard Code of Practice on Occupational Health and Safety Audit as updated from time to time.

6. Submission of Reports. -

- (1) The Occupational Health and Safety Auditor shall within one month from the date of completion of safety audit forward to the Occupier of the factory a Safety Audit Report in Proforma prescribed under **Schedule II** on the letter head and his recommendations regarding improvement of the occupational health and safety system in a factory.

Provided that if during safety audit, auditor finds any hazard posing danger of causing an accident, he shall immediately communicate in writing to the occupier as well as to the Chief Inspector. In such case, the occupier shall take immediate corrective action.

- (2) The Occupier shall, within thirty days of the receipt of the Safety Audit Report in proforma prescribed under Schedule II, forward the same to the concerned office of the Chief inspector or Directorate of Industrial Safety and Health along with the action taken report in pursuant to the recommendations made in the Safety Audit Report.

SCHEDULE - I

(See rule 4(1))

The applicant, for being recognized as Occupational Health and Safety Auditor, shall possess the following qualifications and experience, etc.:-

1. Academic Qualification and Experience.- The applicant shall hold, -
 - (i) A degree in branch of Chemical Engineering or Mechanical Engineering or Production Engineering from recognized university and having five years' of experience in either manufacturing, maintenance, design, project or safety department in factory and Diploma in Industrial safety from state government recognized Board or Institution.
 - Or
 - (ii) A Master degree of Science with Physics and/or Chemistry and having ten years' of experience in either manufacturing, maintenance, design, project or safety Department in factory and Diploma in Industrial safety from state government recognized Board or Institution.
 - Or
 - (iii) A degree or diploma in any branch of Engineering and having ten years' of experience in Factory Inspectorate office or Directorate of Industrial Safety and Health office or ten years of experience in the Director General Factory Advisory Services and Labour Institute or Regional Labour Institute or National Safety Council in the capacity of Assistant Director or above.
2. The applicant shall not be directly or indirectly interested in the factory or in any process or business carried on therein or in any patent or machine connected therewith, in respect of which the safety audit is to be conducted.
3. If the age of applicant is more than 62 years, he shall submit a certificate of physical fitness for carrying out safety audit of factories issued by qualified medical practitioner or civil surgeon or certifying surgeon along with the application for recognition or renewal of recognition.

SCHEDULE - II

(See rule 6)

Proforma for Occupational Health and Safety Audit Report

1. Name and address of the factory :
2. Name of the Occupier :
3. Date of Audit :
4. List of raw material with maximum storage quantity :
5. List of finished products with maximum storage quantity :
6. Manufacturing process flow chart with process parameters and material balance :
7. Name of the Safety Auditor and Certificate No. and name of the person who has carried out safety audit :
8. Whether enclosed Safety Audit Report as per relevant Indian standard or any such standards prevailing at the relevant time, whichever is latest :

Date:

Signature of Occupational Health and Safety Auditor/

Person or employee of an Institution
Authorized to carry out safety audit

I (Occupier) undertake to submit the action taken report on recommendations of Safety Audit on or before

Date:

Signature of the Occupier.

Form I
(See rule 4 (2))

Form of Application for Recognition / Renewal of a person as Occupational Health and Safety Auditor

- (1) Name of the Applicant:
- (2) Full Residential Address:
- (3) Date of Birth:
- (4) E-mail ID:
- (5) Contact No. :
- (6) Educational qualifications:
(Enclose certificates)
- (7) Details of professional experience.:
(In chronological order)

PHOTO

Name of the Organization	Period of Service	Designation	Area of responsibility
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- (8) Membership, if any, of professional bodies :
- (9) Any other relevant information :
- (10) Whether the person has been recognized as an Occupational Health and Safety Auditor under any other statute. If so, give details. :
- (11) For renewal of recognition (attach existing certificate) : Certificate No.....
& Date.....

Declaration by the Applicant:

I,....., hereby declare that the information furnished above is true and I undertake to fulfil and abide by the conditions stipulated in the certificate of recognition and instructions issued by the Chief Inspector from time to time, if any.

Place:

Date:

Signature of Applicant

Form II
(See rule 4 (2))

Form of Application for Recognition / Renewal of an Organization as Occupational Health and Safety Auditor

- 1) Name and full address of the Organization :
- 2) Organisation's status (Specify whether Government, Autonomous, Co-operative, corporate or private) :
- 3) Whether the organization has been recognized as an Occupational Health and Safety Auditor under any other statute. If so, give details. :
- 4) Particulars of person's employed possessing qualification and experience (enclose certificates) :

Sr. No.	Name and Designation	Qualifications	Experience
(1)			
(2)			
5)	Membership, if any, of professional bodies	:	
6)	Any other relevant information	:	
7)	For renewal of recognition (Attach existing certificate)	: Certificate No..... & Date.....	

Declaration:

I, hereby, on behalf of certify that the details furnished above are correct to the best of my knowledge, I undertake to

(i) notify the Chief Inspector about any change in the details of employees (either additions or deletion).

(ii) to fulfil and abide by all the conditions stipulated in the certificate of recognition and instructions issued by the Chief Inspector from time to time.

Place:**Date:**

**Signature of Head of the Organization
Or of the person authorized to sign on
behalf of Organization.
Designation**

Form III*(See rule 4 (3))***Certificate of Recognition to a Person or an Organization as Occupational Health and Safety Auditor**

I, in exercise of the powers conferred on me under rule 4 (3) of the Gujarat Factories (Occupational Health and Safety Auditor) Rules 2022, hereby recognize (name of the person or an organization)..... for providing Occupational Health and Safety Audit services to the factories located in the State of Gujarat.

This certificate is valid from to

This certificate issued is subject to the conditions stipulated hereunder:-

- The Occupational Health and Safety Audit shall be carried out in accordance with the provisions of the said Rules.
- The Occupational Health and Safety Audit shall be carried out by the recognized person only.
- The organization recognized shall keep the Chief Inspector informed of the changes in the names, designations and qualifications of the persons authorized by it to carry out Occupational Health and Safety Audit
- Statement of Occupational Health and Safety Audit done shall be submitted to the Chief Inspector on quarterly basis in the format as may be specified.

Station:**Date:****OFFICIAL SEAL**

**Chief Inspector of Factories
Gujarat State**

By order and in the name of the Governor of Gujarat,

GAGUBHA RAJ,
Deputy Secretary to Government.

